

DEC 27 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GREGORY BELL,

Defendant - Appellant.

No. 09-50590

D.C. No. 2:08-cr-01063-MMM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Margaret M. Morrow, District Judge, Presiding

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and W. FLETCHER, Circuit Judges.

Gregory Bell appeals from the 92-month sentence imposed following his guilty-plea conviction for being a felon in possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Bell contends that the district court procedurally erred by relying upon clearly erroneous facts at sentencing. This contention fails because the district court's view of the evidence was plausible in light of the record. *See United States v. Cantrell*, 433 F.3d 1269, 1284 (9th Cir. 2006). Moreover, the record as a whole indicates that the district court did not procedurally err. *See United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

Bell also contends that the district court abused its discretion by failing to adequately weigh the sentencing factors, and that the within-Guidelines sentence is substantively unreasonable because of the minor nature of his prior convictions that triggered an increased base offense level. The record reflects that the district court considered and properly weighed the sentencing factors under 18 U.S.C. § 3553(a), that it considered Bell's arguments for a lower sentence, and that the sentence is not substantively unreasonable. *See United States v. Cherer*, 513 F.3d 1150, 1159-61 (9th Cir. 2008); *Carty*, 520 F.3d at 993-94.

AFFIRMED.